IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

–

WRIT PETITION NO : 21847 of 2004

Between:

1. K. Ramulu,

   S/o. Sri Sarvaiah,
   R/o. H.No.6-3-707/1,

   Gandhi Nagar, Ramgiri,

   Nalgonda.

2. B. Kondiah,

   S/o. Mallaiah,
   R/o. FCI, Gallaguda,

   Pedda Banda, Nalgonda District.

3. Ch. Rangaiah,

   S/o. Anjaiah,
   C/o. F.C.I. Buffer Storage Depot,

   Charlapalli, Hyd.

4. M. Somaiah,

   S/o. Pentaiah,
   C/o. FCI (BSD)

   Cherlapalli, Hyd.

5. P. Anjaiah,

   S/o. Mallaiah,
   R/o. FCI (BSD),

Cherlapalli, Hyd.

..... PETITIONERS

AND

1. The Senior Regional Manager,

   Food Corporation of India,
   A.P. Region, HACA BHAVAN.

2. The District Manager,

   F.C.I., Nalgonda District Office,
   Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ (i) declaring the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the F.C.I. Staff Regulations 1971 is illegal (ii) declare that action of the respondents in issuing the final orders of recovery vide order No. VIG.3(1)/2001/39 dt. 29.9.2004, No.VIG.3(1)/2001/41 dt. 29.9.2004, No. VIG. 3(1)/2001/19 dt. 24.10.2004, No. Vig. 3(1)2001/11 dt. 24.10.2004, and No. VIG.3(1)/2001/16 dt. 24.10.2004 issued by the second respondent as illegal, arbitrary and violative of principles of natural justice and consequently set aside the same.

Counsel for the Petitioners: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.B.ANJANEYULU

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21847 of 2004

ORDER:

At the request of the learned counsel appearing on both sides, the main writ petition is taken up for hearing and disposal.

2. Questioning the orders of recovery vide order No.VIG.3(1)/2001/39 dated 29-09-2004, No.VIG.3(1)/2001/41 dated 29-09-2004, No.VIG.3(1)/2001/19 dated 24-10-2004, No. VIG.3(1)/2001/11, dated 24-10-2004 and No.VIG.3(1)/2001/16 dated 24-10-2004, issued by the 2nd respondent, this writ petition is filed.

3. It is brought to the notice of this Court by the learned Standing Counsel appearing for the respondents that as against the impugned orders, statutory appeal lies to the first respondent within forty-five days from the date of receipt of a copy of the said order. The learned Standing Counsel also submitted that till the disposal of the appeal, they will not pursue the recovery of monthly instalments from the petitioners.

4. Therefore, without going into the merits of the case as there is a statutory right of appeal against the impugned order, this Court is of the view that the petitioners can, as well avail the said remedy by filing the appeal before the competent authority.

5. In the result, the writ petition is disposed of directing the petitioners to file statutory appeal before the competent authority, which shall be considered and disposed of by the appellate authority within three months from the date of filing of the appeal. In the mean time, the respondents are directed not to recover the monthly instalments from the petitioners in pursuance of the impugned proceedings. In the circumstances, no costs.

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November 29, 2004

Kvr

To

1. The Senior Regional Manager,

   Food Corporation of India,
   A.P. Region, HACA BHAVAN.

2. The District Manager,

   F.C.I., Nalgonda District Office,
   Nalgonda District.

3 Two C.D.Copies.